

# FACTS FOR THE PEOPLE.

## Timber Limits in the "Disputed Territory of Ontario."

16.7.89

One of the most common charges made against the government of Sir John Macdonald is that it has, in violation of the rights of the Provincial Government of Ontario, given away, at nominal prices, and for corrupt purposes, the timber limits comprised within the "disputed territory" west of Thunder Bay. Mr. Geo. W. Ross, in one of his speeches during the recent campaign in Ontario, said: "What has the Dominion Government done—'not with their own timber limits, but with ours?' They have sold large and valuable timber limits in the disputed territory, after the Privy Council had declared it to be within the limits of the Province of Ontario, at the rate of \$5 per square mile as against our \$400." Mr. Mowat and others made substantially the same statement. Mr. Ross gave a list of twenty-six persons who, he said, had received these limits. It so happens that seven names were duplicated in this list; the first seven being repeated at the end of the balance, nineteen, thirteen never obtained licenses, though orders-in-council were passed authorizing the minister to grant them, and were, therefore, never in a position to cut a stick of timber on the limits. Four of these, however, paid one year's rental in advance, or in the aggregate \$1000, which has not been refunded. The other six on the list obtained licenses, and paid on account of rental \$1870; but as they did not erect mills, and as the licenses were not renewed at the end of the year for which they were granted, and have not since been renewed, the only result to them has been the loss of the money they paid to the government. So that the disputed territory is not the poorer by a single stick of timber by the action of the Government in respect of the nineteen persons named by Mr. Ross.

It is proper, however, to state precisely what has been the action of the Government in respect to the timber in this disputed territory. On the 26th day of June 1874, an arrangement was made and confirmed by order in council of the 8th of July following, between the Dominion and Ontario Governments, the former represented by Mr. Laird, Minister of the Interior, and the latter by Mr. Pardee, by which that portion of the so-called "disputed territory" lying west of a line passing through the most easterly point of Hunter's Island, was to be administered by the Government of Canada, the Ontario Government agreeing to confirm all titles given by it, during the period of such administration. Under this arrangement four twenty-one year licenses were granted to cut timber as follows: S. H. Fowler of Fort Frances, the date of the order-in-council being 19th March, 1875, and of the lease 2nd March 1876, for one hundred square miles; Fuller & Co., Hamilton, date of order-in-council and of lease respectively being 22nd July 1875, for sixty square miles; W. J. Macaulay, Winnipeg, date of order-in-council being 18th April 1878, and of lease 1st May 1878, for 74 59-100 square miles; and W. J. Macaulay, date of order 5th April, 1880, and of lease 12th October, 1880, for 25 41-100 miles, this last lease being to complete the area of 100 square miles, authorized when the first lease was granted to Macaulay. Fowler's lease was subsequently assigned to the Rainy Lake Lumber company, and Fuller & Co.'s to the Keewatin Lumbering company. These leases are still in existence. THEY ARE THE ONLY AUTHORITY FROM THE GOVERNMENT OF CANADA, UNDER WHICH TIMBER HAS BEEN CUT IN THE "DISPUTED TERRITORY," SINCE 31ST, OF DECEMBER, 1885. The first three were issued by Mr. Mackenzie's Government, and the last by the Government of Sir John Macdonald, in completion of the arrangement made by his predecessor. The terms of the leases were made by Mr. Mackenzie's Government, and in view of the complaint which is made by Mr. Ross, it is worth while pointing out that the annual rental was only \$3, instead of \$5 as has been charged by the present Government, that the leases were for twenty-one years, instead of yearly licenses since issued, and that they gave the lessees control of the land, with power to evict settlers—a power which has in at least one case been exercised—while the yearly licenses since granted gave no such power. Here is the clause of the lease giving that power:—

"6. The present lessee shall vest in the said lessee during the continuance the right to take and keep exclusive possession of the lands herein above described subject to the conditions here in before provided; and this lease

shall vest in the holder thereof, all right of property whatsoever in all trees, timber, lumber and other products of timber cut within a limit of the lease during the continuance thereof, whether such trees, timber and lumber or products be cut by authority of the holder of such lease or by any other person with or without his consent, and this lease shall entitle the lessee to seize in replevin, re-ventilation or otherwise, as his property, such timber where the same is found in the possession of any unauthorized person and also to bring any action or suit at law or in equity against any party unlawfully in possession of any such timber OR OF ANY LAND SO LEASED AND TO PROSECUTE ALL TREES-PASSERS THEREON and other such offenders as aforesaid, to conviction and punishment and to recover damages if any, and all proceedings pending at the expiration of the present lease may be continued and completed as if the same had not expired."

That clause was sanctioned by the signatures of David Laird, minister of the interior, B. W. Ross, secretary of state, and Edward Blake, minister of justice. It is proper to state that in the case of the first lease a bonus of \$20, and in the case of the others a bonus of \$15 a square mile was given. Put spreading these bonuses over the twenty-one years, the rental would still be not more than an average of \$3 a mile. IF, THEREFORE, THERE IS TIMBER BEING CUT TO-DAY, IN THE "DISPUTED TERRITORY" UNDER AUTHORITY OF THE GOVERNMENT OF CANADA, THE RESPONSIBILITY RESTS WITH THE GOVERNMENT OF MR. MACKENZIE, NOT WITH THAT OF SIR JOHN A. MACDONALD.

The present Government changed the policy. The system of twenty-one year leases, with the extraordinary powers contained in them, was abandoned, and a system of yearly licenses was substituted. The rental was made \$5 a mile, instead of \$3 with a \$15 bonus spread over the twenty-one years, as had before prevailed. Where two or more persons applied for the same limit, they were required to compete, and the person offering the largest bonus got the license, if he complied with the other conditions. Under this new policy, 121 orders-in-council were passed authorizing the issue of yearly licenses, averaging about fifty square miles each. Of these nine were in substitution for other orders authorizing the granting of berths in the same district, which were cancelled. These orders, however, gave no authority to the persons named in them to cut timber until they had made the survey of the limit applied for and obtained the license. One year's rental in advance was required to be paid, after the order was passed and before the license issued, or even the authority to survey was granted. Altogether only twenty-two yearly licenses were issued under the authority of those orders-in-council.

It is complained that the Government continued to deal with the timber in the "disputed territory" after the decision of the Privy Council. The facts are these: Immediately after the decision an opinion of the Minister of Justice, Sir Alexander Campbell, was obtained in which it was stated that "inasmuch as the Crown, as represented by the Government of Canada, acquired by surrender from the Indians their right and title in the lands in question, and is in possession thereof, the undersigned is of opinion that there is no objection to the Minister of the Interior giving effect to the arrangements which he had made anterior to the decision as mentioned in his report by issuing licenses 'in the usual way.'"

Acting under this opinion licenses were issued to such of those to whom the Minister of the Interior had been previously authorized to issue them who returned their notes of survey, to the number of twenty-one. The persons to whom these licenses were granted paid that department by way of advance rents the sum of \$9335 84; and two of them who had to compete, in consequence of there being other applicants, paid in addition \$1124 by way of bonuses. ONLY ONE OF THESE TWENTY-ONE LICENSES EVER CUT A STICK OF TIMBER IN THE "DISPUTED TERRITORY"; THE LAST OF THE LICENSES EXPIRED ON THE 31st DECEMBER, 1886; AND THE GOVERNMENT HAS IN EVERY CASE REFUSED TO RENEW THEM. Acting under the same opinions, orders in council were passed in the latter part of 1884, and subsequent to the 11th August 1884, authorizing the Minister of the Interior to issue licenses to twenty-four applicants. But these were never acted upon, no single license having been issued under them. A clerical error in these orders in council has led to some misapprehension on

this point. It is explained in the following correspondence:—

"OTTAWA, Jan. 8th, 1887.

"DEAR SIR,—In the detailed statement of timber leases and licenses within the 'disputed territory' which you have furnished me, no license appears to have issued under the authority of orders passed since the decision of the Judicial Committee of the Privy Council on the boundary question. Are you quite sure on this point, as the orders themselves convey a different impression.

"Yours truly

"G. U. RYLEY, Esq." "THOMAS WHITE."

CROWN TIMBER OFFICE,

OTTAWA, January 10th, 1887.

"DEAR SIR,—I have made a careful examination of the books in this branch, and am quite certain that the statement I have furnished you is correct. No license has been issued under any order in Council passed since the decision of the Privy Council. The misapprehension has arisen from a mistake of the clerks in the Privy Council office. The order in council passed 26th October, 1884, states: 'On a memorandum dated 3rd Oct. r. r. 1884, from the Minister of the Interior representing that licenses to cut timber in the Province of Manitoba have been granted, etc., etc.' whereas the terms of the memorandum were: 'The undersigned (the Minister of the Interior) has the honor to submit the annexed list of persons TO WHOM HE HAS BEEN AUTHORIZED TO GRANT LICENSES TO CUT 'SUE LICENSES TO CUT TIMBER' etc., etc. As I have said no license has been issued under the authority of these orders-in-council.

"Yours respectfully,

"G. U. RYLEY."

"HON. THOMAS WHITE." The result, therefore, of the Government's administration of the timber resources of the "Disputed Territory" is this:—Four twenty-one year leases have been granted, three of them by the Mackenzie Government, and one, for a small area to complete that authorized by Mr. Mackenzie, by that of Sir John Macdonald. The holders of these leases are the only persons now cutting timber in the "disputed territory" under authority of the Government of Canada. The present Government issued in all twenty-two yearly licenses, but only one of the licensees has ever cut timber under the authority of these licenses; they have all lapsed and the Government has refused to renew them. Sixty-nine orders-in-council were passed, but who never obtained licenses, paid by way bonus for the limits they were applying for, the aggregate sum of \$4137.50.

Some permits were granted, and it is proper to refer to them. In all sixty-four of these permits were granted, fifty-seven of them before the decision of the judicial committee of the Privy Council, and seven subsequent to that date. These seven were for cutting cordwood exclusively, and they were all issued on 1st December, 1884. They have long since lapsed and have not been renewed, and the aggregate dues collected under them amounted only to \$103.00. Of those issued before the decision of the Privy Council, thirty-four were for cordwood, and the balance for timber, ties, telegraph poles, fence rails, etc., connected with the construction of the Canadian Pacific railway. No permit has been granted since December, 1884, and none has been in existence since May, 1885.

There remains but the reference to the price obtained for timber limits. Mr. Ross, in his statement quoted above, says the government of Canada sold these limits at \$5 a square mile, while the government of Ontario obtained \$400 a mile for limits in the northern part of the province. This is an utterly misleading statement. The policy of the Ontario government is to give limits at an annual rental of \$2 a square mile, and to charge seventy-five cents a thousand feet board measure, and one cent and a half a cubic foot on square timber as dues. The policy of the Dominion government is to charge \$5 a square mile annual rental, and five per cent upon the selling value of the timber at the mill, which, on first class timber at any rate, is much more than the dues charged by the Ontario Government. The \$400 is the bonus, and it may be assumed is the highest bonus ever paid to the government for a timber limit in Ontario. Mr. Ross' friends, the Mackenzie government, fixed the value of timber limits in the "Disputed Territory," when they put the bonus at \$15 a square mile, on a twenty-one year lease, with annual rental at \$2 a square mile, the lease covering control of the land as well as the timber. The rental charged by the present government on yearly licenses of \$5 is much more than the price fixed by Mr. Mackenzie's government, including the bonus.